

Message Text

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16

ORIGIN DLOS-04

INFO OCT-01 EUR-12 EA-06 ISO-00 ACDA-05 AGR-05 AID-05

CEA-01 CEQ-01 CG-00 CIAE-00 CIEP-01 OFA-01 COME-00

DODE-00 DOTE-00 EB-07 EPA-01 ERDA-05 FMC-01 TRSE-00

H-02 INR-07 INT-05 IO-10 JUSE-00 L-03 NSAE-00 NSC-05

NSF-01 OES-03 OMB-01 PA-01 PM-03 PRS-01 SP-02 SS-15

USIA-06 FEA-01 /122 R

DRAFTED BY D/LOS:TSCULLY:MZ

APPROVED BY D/LOS - TSCULLY

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EA/J - MR. DEMING (SUB)

EUR/SOV - MR. ZOK (SUB)

EUR/NE - MR. ACHILLES (SUB)

L/OES - MR. LEITZELL

OES/OFA - CDR. BUSBY

----- 106308

R 062140Z AUG 75

FM SECSTATE WASHDC

TO AMEMBASSY LONDON

AMEMBASSY MOSCOW

AMEMBASSY PARIS

AMEMBASSY TOKYO

INFO AMEMBASSY THE HAGUE

C O N F I D E N T I A L STATE 185968

E.O. 11652: GDS

TAGS: PLOS

SUBJECT:LOS: PROPOSED US AMENDMENTS AND COMMENTS ON SINGLE

NEGOTIATING TEXT: MARINE SCIENTIFIC RESEARCH AND

TRANSFER OF TECHNOLOGY

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REF: STATE 178934

1. THERE FOLLOW THE TEXTS OF PROPOSED US AMENDMENTS AND
COMMENTS ON THE SINGLE NEGOTIATING TEXT ARTICLES ON MARINE

SCIENTIFIC RESEARCH (PARAS 3 AND 4 BELOW) AND TRANSFER OF TECHNOLOGY (PARAS 5 AND 6 BELOW). THESE AMENDMENTS AND COMMENTS HAVE BEEN PREPARED FOR GROUP OF FIVE CONSULTATIONS SCHEDULED TO TAKE PLACE IN GENEVA, AUGUST 23-24 PRIOR TO EVENSEN GROUP MEETINGS ON COMMITTEE III ISSUES. THEY SHOULD BE DELIVERED TO RESPECTIVE HOST GOVERNMENT LOS OFFICIALS IMMEDIATELY.

2. FYI: THE MATERIAL TO BE DELIVERED ON EACH SUBJECT (SCIENTIFIC RESEARCH AND TRANSFER OF TECHNOLOGY) IS DIVIDED INTO TWO SECTIONS: PROPOSED AMENDMENTS AND COMMENTS ON PROPOSED AMENDMENTS. THE SECTIONS SHOULD IN EACH CASE BE SEPARATED (I.E., COMMENTS ON PROPOSED AMENDMENTS SECTION SHOULD BEGIN ON NEW PAGE, NOT FOLLOW OH SAME PAGE OF PROPOSED AMENDMENTS SECTION). END FYI

3. MARINE SCIENTIFIC RESEARCH BEGIN TEXT:

UNITED STATES PROPOSED AMENDMENTS TO THE SINGLE NEGOTIATING TEXT ARTICLES ON MARINE SCIENTIFIC RESEARCH

ARTICLE 1. DELETE OR SUBSTANTIALLY MODIFY.

ARTICLE 2. DELETE THE WORDS QTE SUBJECT TO THE PROVISIONS OF THIS CONVENTION UNQTE AND INSERT QTE RECOGNIZING THE RIGHTS AND INTEREST OF THE INTERNATIONAL COMMUNITY AND COASTAL STATES, AS PROVIDED FOR IN THIS CONVENTION UNQTE.

ARTICLES 14 AND 15. DELETE THE WORDS QTE AND THE CONTINENTAL SHELF UNQTE.

ARTICLE 16. INSERT QTE IN THE ECONOMIC ZONE OF A COASTAL STATE UNQTE AFTER THE WORDS SCIENTIFIC RESEARCH IN THE CHAPEAU.

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ARTICLE 18. DELETE

ARTICLE 19. DELETE THE EXISTING TEXT AND INSERT THE FOLLOWING:

1. WITHIN DAYS AFTER RECEIPT OF THE INFORMATION SET FORTH IN ARTICLE 15, THE COASTAL STATE MAY OBJECT TO THE RESEARCH PROJECT ON THE GROUNDS THAT THE RESEARCHER IS ENGAGED IN EXPLORATION FOR NATURAL RESOURCES, HAS NOT COMPLIED WITH THE CONDITIONS SET FORTH IN ARTICLE 16, OR IS CURRENTLY IN VIOLATION OF THOSE CONDITIONS AS A RESULT OF A PRIOR RESEARCH PROJECT. IF THE COASTAL STATE DOES NOT OBJECT WITHIN THE STATED TIME PERIOD, THE RESEARCHING STATE MAY PRO-

CEED WITH THE REALIZATION OF THE RESEARCH PROJECT IN ACCORDANCE WITH THE CONDITIONS SET FORTH IN ARTICLE 16.

2. UNLESS THE PARTIES OTHERWISE AGREE, EACH PARTY, WITHIN DAYS AFTER AN OBJECTION HAS BEEN COMMUNICATED, SHALL CHOOSE AN EXPERT FROM THE MEMBERS OF A REPRESENTATIVE LIST OF QUALIFIED EXPERTS IN ALL FIELDS OF MARINE SCIENTIFIC RESEARCH, ESTABLISHED, AFTER CONSULTATIONS WITH THE EXECUTIVE HEADS OF OTHER APPROPRIATE INTERNATIONAL ORGANIZATIONS, BY THE DIRECTOR-GENERAL OF UNESCO WHO SHALL APPOINT A THIRD EXPERT FROM THE MEMBERS OF THAT LIST.

3. THE EXPERTS SHALL ASSIST THE PARTIES TO REACH

AGREEMENT. IF NO AGREEMENT IS REACHED, THE EXPERTS SHALL, WITHIN DAYS OF THEIR APPOINTMENT, EITHER COLLECTIVELY OR INDIVIDUALLY, GIVE THEIR OPINION TO THE PARTIES CONCERNED.

ARTICLE 20. DELETE THE WORDS QTE THE DETERMINATION OF THE NATURE OF UNQTE.

ARTICLE 21. DELETE THE EXISTING TEXT AND INSERT THE FOLLOWING:

EXPLORATION FOR NATURAL RESOURCES SHALL BE CONDUCTED CONFIDENTIAL

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ONLY WITH THE EXPLICIT CONSENT OF AND UNDER CONDITIONS SET FORTH BY THE COASTAL STATE. REQUESTS FOR SUCH CONSENT SHALL BE SUBMITTED TO THE COASTAL STATE WELL IN ADVANCE AND SHALL BE ANSWERED WITHOUT UNDUE DELAY.

ARTICLE 22. DELETE

ARTICLE 25. DELETE

ARTICLE 26. DELETE THE PHRASES QTE IN CONFORMITY WITH THE PROVISIONS OF THIS CONVENTION UNQTE AND QTE IN THE WATERS OF THE HIGH SEAS UNQTE.

ARTICLE 28-33. DELETE.

ARTICLE 35. DELETE PARAGRAPH 3.

4. COMMENTS ON UNITED STATES PROPOSED AMENDMENTS TO THE SINGLE NEGOTIATING TEXT ARTICLES ON MARINE SCIENTIFIC RESEARCH

ARTICLE 1. IT MAY BE POSSIBLE TO DRAFT A SATISFACTORY DEFINITION FOR INSERTION IN THIS ARTICLE, BUT IT MUST

CLEARLY DEAL WITH THE QUESTION OF SCIENTIFIC RESEARCH AS OPPOSED TO ACTIVITIES OVER WHICH THE COASTAL STATE HAS THE RIGHT OF CONSENT. IF THIS OBJECTIVE CANNOT BE SATISFACTORILY ACCOMPLISHED, ARTICLE 1 SHOULD BE DELETED.

ARTICLE 2. THE PHRASE TO BE MODIFIED SUGGESTS THE RIGHT TO ENGAGE IN THIS HIGH SEAS FREEDOM DERIVES FROM THIS CONVENTION.

ARTICLES 14 AND 15. A SATISFACTORY SOLUTION TO THE PROBLEM OF COASTAL STATE RESOURCE JURISDICTION OVER THE MARGIN BEYOND 200 MILES MAY BE IMPAIRED BY SEEKING TO

EXPAND THIS JURISDICTION TO INCLUDE SCIENTIFIC RESEARCH OR COMPETENCE OVER DUMPING. FOR EXAMPLE, RESTRICTIONS ON RESEARCH COULD LEAD TO INTERFERENCE WITH ACTIVITIES CONDUCTED IN THE WATER COLUMN, THEREBY UNDERMINING ANY EFFORT TO OBTAIN COASTAL STATE RESOURCE JURISDICTION
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OVER THE MARGIN BEYOND 200 MILES.

ARTICLE 16. THIS IS MERELY A TECHNICAL AMENDMENT DESIGNED TO PROVIDE A GEOGRAPHICAL AREA TO WHICH THE REQUIREMENT APPLIES.

ARTICLE 18. THIS DELETION IS THE RESULT OF THE AMENDMENTS TO ARTICLES 19 AND 21. ARTICLES 19 AND 21 AS AMENDED, PROHIBIT EXPLORATION FOR NATURAL RESOURCES WITHOUT CONSENT. THE NEED FOR ARTICLE 18 IS THEREFORE OBVIATED.

ARTICLE 19. THIS AMENDMENT PROVIDES THAT THE EXPLORATION FOR NATURAL RESOURCES AND THE NON-FULFILLMENT OF THE CONDITIONS SET FORTH IN ARTICLE 16 ARE THE BASIS FOR A COASTAL STATE OBJECTION. WITH RESPECT TO PRIOR RESEARCH PROJECTS, FAILURE TO FULFILL A CONDITION THAT IS STILL CAPABLE OF BEING FULFILLED--SHARING OF DATA AND SAMPLES--WOULD ALSO BE A BASIS FOR OBJECTION (ALTHOUGH FAILURE TO FULFILL A CONDITION NO LONGER CAPABLE OF BEING FULFILLED--AN ALLEGATION OF INADEQUATE OPPORTUNITY TO PARTICIPATE IN THE PRIOR PROJECT--WOULD NOT).

ARTICLE 20. THIS AMENDMENT IS MADE NECESSARY BY THE MODIFICATION OF ARTICLE 19.

ARTICLE 21. THIS AMENDMENT REINFORCES THE CONCEPT OF COASTAL STATE CONTROL OVER EXPLORATION FOR NATURAL RESOURCES.

ARTICLE 22. DELETION IS REQUIRED BECAUSE OF THE DELETION OF ARTICLE 18 AND THE MODIFICATION OF ARTICLE 19.

ARTICLE 25. WITH THE EXCEPTION OF PARAGRAPH 1, ARTICLE 25 IS UNACCEPTABLE. THE ESSENCE OF PARAGRAPH 1 IS SET FORTH IN ARTICLE 26.

ARTICLE 26. THE PHRASES TO BE DELETED SUGGEST THE RIGHT TO EXERCISE THIS TRADITIONAL HIGH SEAS FREEDOM DERIVES FROM THE CONVENTION AND THAT IT IS LIMITED TO THE WATER COLUMN.
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ARTICLES 28-33. ARTICLE 27 SETS FORTH THE BASIC RULE FOR RESEARCH INSTALLATIONS AND EQUIPMENT. THE ARTICLES

SUGGESTED FOR DELETION DEAL WITH TECHNICAL DETAILS BETTER LEFT FOR FUTURE CONSIDERATION.

ARTICLE 35. THIS PARAGRAPH DEALS NOT ONLY WITH LIABILITY BUT WITH A CHOICE OF LAW QUESTION WHICH ELEVATES COASTAL STATE JURISDICTION WITHIN THE ECONOMIC ZONE AND COULD PREJUDICE THE ISSUES IN OTHER AREAS, FOR EXAMPLE POLLUTION FROM VESSELS IN THE ECONOMIC ZONE.

END TEXT MARINE SCIENTIFIC RESEARCH

5. BEGIN TEXT TRANSFER OF TECHNOLOGY:

UNITED STATES PROPOSED AMENDMENTS TO THE SINGLE NEGOTIATING TEXT ARTICLES ON DEVELOPMENT AND TRANSFER OF TECHNOLOGY

ARTICLE 1 (1). DELETE QTE WITHIN THEIR CAPABILITIES UNQTE.

ARTICLE 8. DELETE

ARTICLE 9. DELETE

ARTICLE 10. DELETE QTE WITH THE INTERNATIONAL SEA-BED AUTHORITY UNQTE AND QTE AS WELL AS UNQTE.

ARTICLE 11 (G). DELETE

6. COMMENTS ON UNITED STATES PROPOSED AMENDMENTS TO THE SINGLE NEGOTIATING TEXT ARTICLES ON THE DEVELOPMENT AND TRANSFER OF TECHNOLOGY

ARTICLE 1 (1). TEXT AS DRAFTED CREATES A DOUBLE STANDARD.

ARTICLE 8. THIS ARTICLE DEALS WITH TRANSFER OF TECHNOLOGY RELATING TO THE DEEP SEABED AND THEREFORE SHOULD BE DEALT
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WITH ONLY IN PART I (DEEP SEABEDS) OF THE TREATY.

ARTICLE 9. AS IN THE CASE OF ARTICLE 8 THIS ARTICLE DEALS WITH TRANSFER OF TECHNOLOGY RELATING TO THE DEEP SEABED AND THUS SHOULD BE TREATED IN PART I OF THE TREATY.

ARTICLE 10. THE REFERENCE TO THE INTERNATIONAL SEABED AUTHORITY HERE AGAIN RAISES THE QUESTION OF TRANSFER OF TECHNOLOGY RELATING TO THE DEEP SEABED WHICH, AS NOTED, SHOULD BE HANDLED IN PART I OF THE TREATY.

ARTICLE 11 (G). THE SCOPE OF THIS ARTICLE IS EXTREMELY BROAD AND THE NATURE OF THE OBLIGATION IS NOT CLEAR.

END TEXT TRANSFER OF TECHNOLOGY

7. IN LETTERS TRANSMITTING ABOVE TEXTS, YOU SHOULD INCLUDE FOLLOWING STATEMENT:

QTE THE U.S. PROPOSED AMENDMENTS AND COMMENTS ADDRESS THE MAJOR ISSUES RAISED IN THE SINGLE NEGOTIATING TEXT ARTICLES ON MARINE SCIENTIFIC RESEARCH AND TRANSFER OF TECHNOLOGY. THEY ARE NOT MEANT TO BE AN EXHAUSTIVE COMPILATION OF ALL NECESSARY DRAFTING CHANGES. END QTE.

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<< END OF DOCUMENT >>

Message Attributes

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